



# STAFF REPORT

## SAUSALITO CITY COUNCIL

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### AGENDA TITLE:

Appeal to the City Council of Planning Commission Resolution No. 2007-35 Denying Design Review and Variance Application No. DR/VA 07-009 at 103 Bonita Street (APN 065-082-04).

### RECOMMENDED MOTION:

Staff recommends that the City Council deny the appeal and uphold the Planning Commission's adoption of Resolution No. 2007-35 Denying Design Review and Variance Application No. DR/VA 07-009.

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### SUMMARY

The applicant, Don Olsen, on behalf of the property owner, Michal Staninec, is appealing the action of the Planning Commission to adopt Resolution 2007-35 denying the proposal for an addition to a 1,964 square foot residence located at 103 Bonita Street to construct 506 square feet of new floor area and 435 square feet of new building coverage, on the basis that the project would not impact the neighborhood in any way.

### BACKGROUND

In March 1986, a Design Review Permit was approved to demolish a two-car garage and construct a four-car garage in its place within the required rear setback area. The garage currently covers 36% of the required rear yard setback, more than what is allowed by the Zoning Ordinance in 1986 or the Zoning Ordinance in effect today.

On November 7, 2007, the Planning Commission considered Design Review and Variance Application No. 2007-09. The Commission commented that, although they understand the project would not have any significant impacts on the neighborhood, they were unable to make the required variance findings. The Planning Commission resulted in a split vote, with two Commissioners denying and two Commissioners approving the project, effectively denying the application. On November 12, 2007 the applicant filed an appeal of the denied application to the City Council.

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## ANALYSIS

This following lists the requisite Variance findings and summarizes the applicant's findings for why they believe the project should be approved, as stated in a letter dated September 17, 2007 (Attachment 5), and the Planning Commission findings for denial, as adopted in Resolution 2007-35.

***10.68.050.A) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property, that do not apply generally to other property or sues in the same district.***

### Applicant's Findings

- The existing home on this parcel was constructed in the 1930's when the rear yard setback requirements were established in a very different manner, to produce different effects of community design. When the zoning ordinances and setback requirements were updated it left the structure non-compliant. The revising of the zoning ordinance and setback requirements after the residence has been built is considered an exceptional circumstance and as such meets this finding.

### Planning Commission's Findings

- The subject parcel is 5,000 square-feet and is located in the R-2-2.5 zoning district, which requires a minimum net parcel area of 5,000 square-feet. The parcel at 103 Bonita Street is a legally conforming parcel. The rectangular lot is 100 feet by 50 feet, includes generally level terrain, and has frontage on both Bonita and Pine Street. For these reasons, the Planning Commission is unable to find exceptional or extraordinary circumstances in regards to the property.

***10.68.050.B) Owing to such exceptional or extraordinary circumstances the literal enforcement of the provisions of the Title would result in practical difficulty or unnecessary hardship.***

### Applicant's Findings

- If the addition is required to be built within the current setbacks the project will have a stronger impact on the neighborhood due to it's proximity to the street and will create a less than ideal design solution and result in loss of the primary view for the residence. The literal enforcement of the current zoning setback requirements will create practical difficulties with respect to location and function of the residence, meeting this finding.

### Planning Commission's Findings

- The existing home at 103 Bonita was built prior to the adoption of a Zoning Ordinance. Since the time the home was constructed, multiple remodels have occurred. Denial of the Variance would not require the removal of any structure or

area. Although the owner, Michal Staninec has identified the internal connection of the home and the lack of flow between the home and garage as a hardship, the Commission is unable to find these as hardships to support the request. For the purposes of this finding, a self-imposed hardship is not considered grounds for approval of a Variance as requested. Denial of the Variance does not create a hardship in the owner's ability to use the existing home or garage currently existing on the parcel.

***10.68.050.C) Such Variance is necessary for the preservation of a substantial property right of the petitioner, possessed by the other property in the same district.***

Applicant's Findings

- Other parcels in this neighborhood have homes/structures constructed within one or more of their current required setbacks due to being constructed prior to the current setback requirements. This makes the ability to construct, responsibly and with valid design, within the current setback a substantial property right of the property owners of this district and as such meeting this finding.

Planning Commission's Findings

- Since the property was constructed in 1930's, prior to the adoption of the Zoning Code, a small protrusion of the home was built within a rear setback area. The protrusion encompasses a total of 7.5 square feet. The rest of the home was built outside of current Zoning Code's required setback area. The home, if developed now, could not be developed in the same location without a variance. The area is a mix of single-family, two-family, and multi-family dwellings. Whether or not the requested Variance is granted, the owner would be allowed to maintain the use of the existing home. Based on this information, the Commission does not believe that approval of the Variance is necessary for the preservation of the owner's property rights.

***10.68.050.D) The granting of such Variance will not be materially detrimental to the public welfare or injurious to the property or improvement in the vicinity or in the district in which the subject property is located.***

Applicant's Findings

- The project will have minimal if any impact on the neighborhood and certainly will not be materially detrimental to the public welfare or injurious to the property or improvement in the vicinity or in the district in which the subject property is located, meeting this finding. Also, this project has the full support of its adjoining neighbors as well as those in the immediate neighborhood.

Planning Commission's Findings

- The subject proposal for the additional floor area and deck, though visible from the

street, would not obstruct any public or private view corridor. The applicant has done neighborhood outreach, and there are a number of letters of support submitted by people in the neighborhood. No letters of opposition have been submitted and no information has been received by staff suggesting a negative impact on the neighborhood. The proposal would not add bulk and mass to the street, as the proposed addition is setback is 19 feet from the property line and 31.5 feet from the street, As such, the granting of the requested Variance would not be materially detrimental to the public or to any neighboring properties.

***10.68.050.E) The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.***

Applicant's Findings

- As previously stated, many of the parcels in this neighborhood have homes/structures constructed within one or more of their current required setbacks. Therefore, the granting of this Variance will not constitute granting any special privilege to the property owner, meeting this finding.

Planning Commission's Findings

- All properties within the R-2-2.5 Zone district are held to the same development standards as outlined in Chapter 10 of the Sausalito Municipal Code. A maximum floor area ratio of 0.65, 50% building coverage, and 67.5% impervious surface may be permitted for properties located in the R-2-2.5 district, as specified in SMC Table 10.22-2. Approval of the requested Variance would not affect the floor area, building coverage, or impervious surface as the proposal conforms to those requirements. The proposed addition of building coverage would require Heightened Review, which would be at 96% of the total allowed building coverage. This, however, is not a reason to deny the Variance, as Heightened Review is a common requirement amongst Design Review projects in Sausalito. The Commission believes that granting relief from the requirements of the Zoning Ordinance for the addition and garage in the required setbacks would grant the owner special privilege that is not necessary in preserving the use and enjoyment of his property.

***10.68.060.F) The granting of such Variance will be in harmony with the general purpose and intent of this Title and General Plan.***

Applicant's Findings

- The granting of the proposed Variance will be in harmony with the General Plan and follows the intent of SMC Chapter 10.68 by providing an alternative to strict application of the Zoning Ordinance where special conditions exist, meeting this finding.

### Planning Commission's Findings

- Section 10.22.020(A) of the Sausalito Municipal Code specifies that the site development standards for the R-2-2.5 zoning district “reflect the scale, character, and intensity of existing neighborhoods”. The additional building coverage and floor area is visible from the public right-of-way and its creation will create additional building coverage but will not increase existing building height on the parcel. Although the Zoning Code requires an increased setback, the Commission believes that the proposed addition would not create impacts with regard to scale, character, or intensity that significantly deviate from the existing fabric of the neighborhood. Additionally, although the existing development and addition would be considered to be within a required setback, the property as viewed from neighboring parcels or from the public right-of-way is compatible with the existing neighborhood character. Based on these specific factors, the Commission believes the approval of the Variance would not create a situation incompatible with the intent of the General Plan or Zoning Ordinance.

### **STAFF RECOMMENDATION**

Staff recommends the City Council deny the appeal and uphold Planning Commission Resolution No. 2007-35 denying Variance Application No. DR/VA 07-09 for an addition to a 1,964 square foot single-family dwelling located at 103 Bonita to construct 506 square feet of additional floor area and 435 square feet of additional building coverage, as indicated on the project plans titled “Staninec Residence” dated June 25, 2007 (Attachment 4).

### **ATTACHMENTS**

1. City Council Draft Resolution of Denial
2. Planning Commission Resolution 2007-35, November 7, 2007
3. Applicant's Letter of Appeal, received November 12, 2007
4. Project Plans
5. Planning Commission Staff Report with Attachments

PREPARED BY:

REVIEWED BY (Department Head):

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Debra Lutske  
Assistant Planner

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Diane Henderson  
Interim Community Development  
Director

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SUBMITTED BY:

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Adam Politzer  
City Manager